

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

RICHARD FERNANDEZ DUARTE, JR. §
VS. § CIVIL ACTION NO. 9:20cv151
DIRECTOR, TDCJ-CID §

MEMORANDUM ORDER REGARDING TRANSFER

Petitioner Richard Fernandez Duarte, Jr., an inmate confined at the Connally Unit of the Texas Department of Criminal Justice, Institutional Division, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Discussion

Petitioner brings this petition for writ of habeas corpus challenging two criminal convictions received November 25, 1991 in Bexar County, Texas.

Pursuant to 28 U.S.C. § 2241(d), a petitioner may bring his petition for writ of habeas corpus in the district court for the district wherein such person is in custody or in the district court for the district within which he was convicted. Section 2241(d) further provides that the district court in the exercise of its discretion may transfer the action to the other district in the furtherance of justice.

Petitioner challenges two convictions received in Bexar County, Texas. Further, petitioner is currently housed at the Connally Unit which is located in Karnes County, Texas. Pursuant to 28 U.S.C. § 124, both Bexar County and Karnes County are within the jurisdictional boundaries of the San Antonio Division of the United States District Court for the Western District of Texas. Thus, plaintiff has failed to establish jurisdiction exists in this court.

Under 28 U.S.C. § 1404(a), for the convenience of parties and witnesses and in the interest of justice, a district court may transfer any civil action to any other district or division where it could have been brought. Such a transfer may be done *sua sponte* and is reviewable only for an abuse of discretion. *Mills v. Beech Aircraft Corp.*, 886 F.2d 758, 761 (5th Cir. 1989).

Since petitioner complains of convictions received in the San Antonio Division of the Western District of Texas and all records and witnesses involving this action may be located in such district, the transfer of this action to such division would further justice. Therefore, it is the opinion of the undersigned that this petition should be transferred to the United States District Court for the Western District of Texas, San Antonio Division. An Order of Transfer so providing shall be entered in accordance with this Memorandum Order.

SIGNED this the 13th day of July, 2020.



Keith F. Giblin
KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE